

Hernandez, 504 U.S. 25, 32-33 (1992), a court may dismiss as frivolous in forma pauperis complaints whose factual allegations are fanciful, fantastic, delusional, irrational, or wholly incredible, but not those which are simply unlikely.

The Court concludes that Plaintiff Caldwell's complaint is subject to dismissal under *Neitzke* and *Denton*. Caldwell is one of the most litigious *pro se* plaintiffs this Court has ever encountered. He has filed over 128 cases in the state and federal courts since 1988, more than 25 in this court alone. See *Caldwell v. Triangle Transit Authority*, No. 1:08CV10 (M.D.N.C. Recommendation of United States Magistrate Judge, Aug. 22, 2008). He is a prolific litigator whose complaints have repeatedly been dismissed by this Court as frivolous.

Plaintiff's claims in this action are fanciful, delusional, and irrational. He opens his complaint with the allegation that he and his 89-year-old mother are the victims of a vendetta by "crooked Durham County sheriffs and detectives as well as Chapel Hill Police and their Mexican & Black drug gang coconspirators." From there, the complaint continues with allegations that federal officials are colluding with street gangs to harass and target Plaintiff and his mother. His allegations continue in bizarre fashion, and conclude with claims of a RICO conspiracy by the federal defendants. Plaintiff's diatribe is precisely the kind of frivolous complaint that is subject to dismissal under *Neitzke*.

For these reasons, **IT IS RECOMMENDED** that *in forma pauperis* status be granted and that Plaintiff's complaint be dismissed as frivolous under 28 U.S.C. § 1915(e)(2)(B).

This the 18th day of November, 2008.

/s/ P. Trevor Sharp
United States Magistrate Judge